

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

FILED

January 07, 2025

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: \_\_\_\_\_ NM  
DEPUTY

JOHN CAPE,

Plaintiff,

v.

BEXAR COUNTY, JAVIER  
SALAZAR, FERMIN GUZMAN,  
ALEXANDER URIEGAS, and  
INFORMANT ISSAC GARZA,

Defendants.

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CIVIL NO. SA-23-CV-00995-OLG

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The Court has considered United States Magistrate Judge Elizabeth S. Chestney's Report and Recommendation (R&R), filed November 6, 2024, concerning the Motion to Dismiss Plaintiff's Malicious Prosecution Claim (Dkt. No. 26) filed by Defendants Bexar County, Javier Salazar, Alex Uriegas, and Fermin Guzman. (See R&R, Dkt. No. 30.)

Any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days after being served with a copy of the findings and recommendations. FED. R. Civ. P. 72(b)(2). The parties through counsel, were electronically served with a copy of the R&R when it was entered on November 7, 2024, and the time to object has passed. Because no party has objected to the Magistrate Judge's findings or recommendations, the Court reviews the R&R for clear error. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989); cf. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection is made.") After such review, the Court finds that the R&R is neither clearly erroneous nor contrary to law.

The Court therefore **ADOPTS** the Magistrate Judge's R&R (Dkt. No. 30) and, for the reasons set forth therein, Defendants' Motion to Dismiss (Dkt. No. 26) is **GRANTED**, and Plaintiff's only remaining claim in the complaint is **DISMISSED**.

Additionally, on May 17, 2024, Plaintiff was advised that failure to file proof of service as to Defendant Issac Garza or a motion to extend time for service could result in Garza's dismissal from this case pursuant to Rule 4. (Order, Dkt. No. 18 at 2.) To date, there is nothing in the record to indicate that Plaintiff has properly served Garza or desires additional time in which to do so. Accordingly, Plaintiff's claims, if any, against Defendant Garza are **DISMISSED WITHOUT PREJUDICE** for failure to timely serve, failure to prosecute, and failure to comply with a court order. *See FED. R. CIV. P. 4(m); FED. R. CIV. P. 41(b).*

This case is **CLOSED**.

It is so **ORDERED**.

SIGNED this 7 day of January, 2025.



ORLANDO L. GARCIA  
United States District Judge